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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

MAPLE BANK GmbH,

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 16-____ (____)

Recognition Request Pending

**EX PARTE MOTION FOR AN ORDER (I) SCHEDULING
HEARING REGARDING VERIFIED CHAPTER 15 PETITION AND
(II) SPECIFYING FORM AND MANNER OF SERVICE OF NOTICE**

Dr. Michael C. Frege, in his capacity as the court-appointed Insolvency Administrator and putative foreign representative (in such capacity, the “Petitioner”) for Maple Bank GmbH (“Maple Bank” or the “Debtor”) in an insolvency proceeding under the German Insolvency Act, pending before the Frankfurt Lower District Court (*Amtsgericht Frankfurt am Main*) (the “German Court”), Case No. 810 IN 128/16 M (the “German Proceeding”), by and through his US counsel, Dentons US LLP, respectfully submits this *ex parte* motion (the “Motion”) seeking the entry of an order, substantially in the form of the proposed order attached as Exhibit A: (i) scheduling a hearing (the “Recognition Hearing”) on the relief sought in the *Verified Petition for Recognition of Foreign Proceeding and Motion for Order Granting Related Relief* (together, the “Verified Petition”) filed concurrently herewith, and (ii) specifying the form and manner of service of notice thereof. In support of this Motion, the Petitioner respectfully represents as follows.

Jurisdiction, Venue, and Predicates for Relief

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. § 1410.

2. The statutory predicates for the relief requested herein are Rules 1101, 2002, and 9007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 9013-1 of the Local Rules for the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”).

Background

3. Background information relevant to this Motion is set forth in the Verified Petition and *Declaration of Charlotte L. Schildt in Support of Verified Petition for Recognition of Foreign Proceeding and Motion for Order Granting Related Relief* (the “Schildt Declaration”) filed concurrently herewith, which is incorporated herein by reference.

Relief Requested

4. This Motion seeks the entry of an order, substantially in the form of the proposed order attached hereto as Exhibit A: (i) scheduling the Recognition Hearing for March 8, 2016, at 10:00 a.m. (prevailing Eastern Time) or as soon thereafter as the Court’s calendar permits, (ii) setting March 1, 2016 at 4:00 p.m. (prevailing Eastern Time), seven days prior to the Recognition Hearing, as the deadline by which any responses or objections to the relief requested in the Verified Petition must be received by the Petitioner and filed with the Court (the “Objection Deadline”), (iii) approving the form of notice of the Recognition Hearing annexed hereto as Exhibit B (the “Notice”), and (iv) specifying the manner of service of the Notice as described herein.

Basis for Relief

5. Bankruptcy Rule 2002(q)(1) provides that at least 21 days' notice must be given of a hearing to consider a petition for recognition of a foreign proceeding to the "debtor, all administrators in foreign proceedings of the debtor, [all] entities against whom provisional relief is being sought under" section 1519 of title 11 of the United States Code (the "Bankruptcy Code"), all parties to any pending litigation "in the United States in which the debtor is a party," and any other parties the Court may direct. Moreover, Bankruptcy Rules 2002(m) and 9007 state that the form and manner of notice shall be designated by the Court, unless otherwise provided by the Bankruptcy Rules. The Bankruptcy Rules do not prescribe the form and manner of notice to be provided in connection with a hearing on a petition for recognition of a foreign proceeding and, therefore, the Court may do so.

6. Here, the following parties are entitled to such notice (collectively, the "Notice Parties"):

Administrators of Foreign Proceedings

- Federal Financial Supervisory Authority
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)
Attn: Insolvency Department
Marie-Curie-Str. 24-28
60439 Frankfurt
- Frankfurt Lower District Court
60313 Frankfurt am Main Gerichtsstraße 2
Frankfurt, Germany
- Dr. Michael C. Frege, in his capacity as Maple Bank's foreign representative
c/o CMS Hasche Sigle
Neue Mainzer Straße 2-4
60311 Frankfurt, Germany]

Parties to U.S. Litigations

- Upon information and belief, Maple Bank is not party to any US litigations.

Other Parties Entitled to or Otherwise Receiving Notice¹

- The Office of the United States Trustee
- Such other entities as the Court may direct.

7. Consistent with the applicable Bankruptcy and Local Rules, the Petitioner seeks to provide notice of this chapter 15 case to the Notice Parties. The Petitioner respectfully submits that Bankruptcy Rule 2002(q) is satisfied by (i) service of the Notice and the Verified Petition (together, the “Notice Documents”) by United States mail, first-class postage prepaid (or overnight courier, as the Court may direct), on the Notice Parties, in accordance with Bankruptcy Rules 2002(k) and (q) and Local Bankruptcy Rule for the Southern District of New York (the “Local Rules”) 9013-1(b), and that same constitutes adequate and sufficient notice of this chapter 15 case, the relief sought in the Verified Petition, the deadline for filing objections to the relief sought in the Verified Petition, and the time, date, and place of the Recognition Hearing. Accordingly, the Petitioner respectfully requests that this Court approve the foregoing manner of notice and service of the Notice Documents pursuant to Bankruptcy Rules 2002 (m), (q), and 9007.

8. Moreover, the Petitioner will provide notice of the Verified Petition, Recognition Hearing, and Objection Deadline to all of Maple Bank’s creditors and counterparties through its website: <http://www.maplebank.com/>.

9. In addition, the Petitioner respectfully submits that the Notice (attached hereto as Exhibit B) provides adequate information to apprise the Notice Parties of the relief sought in the Verified Petition and requests that it be held sufficient.

10. Bankruptcy Rule 1011(b) provides that a party objecting to a petition filed to

¹ The Petitioner was appointed as Maple Bank’s Insolvency Administrator less than a week ago, and is diligently investigating its assets and affairs, including the identity and location of its creditors and counterparties. Accordingly, the Petitioner will supplement or modify this motion to the extent necessary to ensure that Maple Bank’s US creditors and counterparties are given notice of this chapter 15 proceeding.

commence a proceeding under chapter 15 of the Bankruptcy Code has 21 days from the date of service of the petition to respond. The Petitioner respectfully submits that: (i) scheduling the Recognition Hearing on March 8, 2016 (or as soon thereafter as the Court's calendar permits) and (ii) setting March 1, 2016 as the Objection Deadline, is appropriate under the circumstances.

11. Section 1514(c) of the Bankruptcy Code provides that when “notification of commencement of a case is to be given to foreign creditors, such notification shall[] indicate the time period for filing proofs of claim[,] specify the place for filing such proofs of claim[, and] indicate whether secured creditors need to file proofs of claim.” It is not clear, however, that section 1514 of the Bankruptcy Code applies in the context of a case under chapter 15 in which administration of claims may not take place. Section 1514 of the Bankruptcy Code is the “last in the series of sections dealing with the international aspects of cases under chapters other than chapter 15 that began with section 1511. . . .” 8 *Collier on Bankruptcy* ¶1514.01 (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). Furthermore, as described in the Verified Petition and Schildt Declaration, the German Insolvency Act contains provisions that govern claims administration. The Petitioner submits that any claims against Maple Bank will likely be administered or otherwise addressed in the German Proceeding under the German Insolvency Act or other applicable German law, which request is congruent with the principles of comity and cooperation among courts in cross-border insolvency cases embodied by chapter 15. Accordingly, the Petitioner respectfully requests that the requirements contained in section 1514(c) of the Bankruptcy Code, to the extent they apply, be waived. Courts in various jurisdictions have granted similar relief on an *ex parte* basis in chapter 15 cases. *See, e.g., In re Strata Energy Services Inc. et al.*, Case No. 15-20821 (Bankr. D. Wy. Dec. 15, 2015) [D.I. 13]; *In re Cogent Fibre Inc.*, Case No. 15-11877 (Bankr. S.D.N.Y. July 21, 2015) [D.I. 14]; *In re*

Upper Deck Int'l B.V., Case No. 12-14294 (SMB) (Bankr. S.D.N.Y. Oct. 18, 2012) [D.I. 8] (entered on an *ex parte* basis); *In re Lion City-Run Off Private Limited*, Case No. 06-10461 (Bankr. S.D.N.Y. Mar. 20, 2006) [D.I. 8].

Ex Parte Motion

12. Given the procedural nature of the relief sought herein, this Motion is made on an *ex parte* basis.

No Prior Request

13. No prior motion or application for the relief requested herein has been made to this or any other Court.

WHEREFORE, the Petitioner respectfully requests that the Court enter the proposed order attached hereto as Exhibit A scheduling the Recognition Hearing and the Objection Deadline, approving the form and manner of Notice and service of the Notice Documents, and granting the Petitioner such other and further relief as is just and proper.

[signature on following page]

Dated: February 15, 2016
New York, New York

Respectfully submitted,

DENTONS US LLP

/s/ D. Farrington Yates

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